



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB890]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of the Revolution Wind Offshore Wind Farm offshore of Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for regulations and Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from Revolution Wind, LLC (Revolution Wind), a subsidiary of Ørsted Wind Power North America, LLC's (Ørsted), for authorization to take small numbers of marine mammals incidental to construction and operation activities associated with the Revolution Wind Offshore Wind Farm in Revolution Wind's lease area on the Outer Continental Shelf (OSC-A 0468) offshore of Rhode Island over the course of 5 years beginning in 2023. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Revolution Wind's request for the development and implementation of regulations governing the incidental taking of marine mammals and issuance of a Letter of Authorization (LOA). NMFS invites the public to provide information, suggestions, and comments on Revolution Wind's application and request.

DATES: Comments and information must be received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to *ITP.Esch@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period.

Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable> without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Carter Esch, Office of Protected Resources, NMFS, (301) 427-8421. An electronic copy of Revolution Wind's application may be obtained online at: *<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>*. In case of problems accessing these documents, please email the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if

the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On October 8, 2021, NMFS received an application from Revolution Wind requesting authorization for the taking of marine mammals incidental to construction and operation activities related to the development of the Revolution Wind Offshore Wind Farm offshore of Rhode Island in Commercial Lease (OCS-A-0486). In response to our comments, and following extensive information exchange with NMFS, Revolution Wind submitted a revised application on February 23, 2022, that we determined was adequate

and complete on February 28, 2022. Revolution Wind requested the regulations and subsequent LOA be valid for five years beginning in 2023.

Revolution Wind considered the following activities associated with Wind Farm construction and operation in its application: impact installation of monopiles for wind turbine generators (WTG) foundations; impact installation of monopiles for offshore substation (OSS) foundations; potential detonations of unexploded ordnances (UXOs); construction of temporary cofferdams or casing pipes with support sheet piles at the sea-to-shore transitions, which includes vibratory installation and removal of sheet piles and pneumatic hammering installation and removal of casing pipes; site characterization surveys; fisheries monitoring; placement of scour protection; and export cable and inter-array cable trenching, laying, and burial. Vessels will be used to transport crew, supplies, and materials within the Project area and to the Wind Farm location to support pile installation. A subset of these activities (*i.e.*, installing and removing piles and casing pipes using impact and vibratory hammers, UXO detonation, and site characterization surveys) may result in the taking, by Level A harassment and Level B harassment, of marine mammals. Therefore, Revolution Wind requests authorization to incidentally take marine mammals.

Specified Activities

In Executive Order 14008, President Biden stated that it is the policy of the United States to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Through a competitive leasing process under 30 CFR 585.211, Revolution Wind was awarded Commercial Lease OCS-A 0486 offshore of Rhode Island and the exclusive right to submit a construction and operations plan (COP) for activities within the lease area. Revolution Wind, LLC has submitted a COP to BOEM proposing the construction, operation, maintenance, and conceptual decommissioning of the Revolution Wind project, a 704-megawatt (MW) commercial-scale offshore wind energy facility located within Lease Area OCS-A 0486 and consisting of up to 100 wind turbines, 2 offshore sub-stations, and 2 transmission cables to shore.

Revolution Wind anticipates activities potentially resulting in the taking of marine mammals could occur for the life of the requested regulations and LOA. This includes:

- construction-related high-resolution site assessment geophysical surveys in all 5 years (248 survey days per year during Years 1; 25 survey days per year during Years 2 through 5);
- the installation of up to 100 WTG monopile foundations (12-meter (m) diameter piles) by impact pile driving from May through December in Year 1 over the course of 31 to 100 days;
- the installation of 2 OSS foundations by impact pile driving of 2 monopiles (15-m diameter piles) from May through December in Year 1 over the course of 2 days;
- the installation and removal of 2 temporary cofferdams by vibratory pile driving at the cable tie-in area in Year 1 (14 days for installation and 14 days for removal per cofferdam; 56 days total) or, as an alternative to cofferdams (and also at the cable tie-in area in Year 1), installation and removal of 2 casing pipes by pneumatic hammering and supporting sheet piles by vibratory pile driving (2 days for installation and 2 days for removal per casing pipe, 8 days total; 6 days for installation and 6 days for removal of support sheet piles per cable tie-in area, 24 days total); and,

- the potential detonation of up to 13 UXOs over the course of 13 days in Year 1 (1 UXO detonation per day, as necessary).

Revolution Wind has noted that these are the most accurate estimates for the durations of each planned activity, but that the schedule may shift over the course of the Project due to weather, mechanical, or other related delays.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning Revolution Wind's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Revolution Wind, if appropriate.

Dated: March 16, 2022.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

[FR Doc. 2022-05947 Filed: 3/18/2022 8:45 am; Publication Date: 3/21/2022]